

REMARKS

Claims 1-27 are all the claims pending in the application, with claims 1, 14, 23 and 25-27 being in independent form. Upon entry of the present Amendment, claims 1-27 are amended. No new matter is presented.

Dealing with preliminary matters first, Applicant thanks the Examiner for indicating acceptance of the drawings and the claim for foreign priority. Also, Applicant thanks the Examiner for initialing the Information Disclosure Statements filed August 27, 2001, August 26, 2003 and October 7, 2004. However, Applicant notes that the Information Disclosure Statement filed May 19, 2004 was not initialed and returned with the Office Action. Thus, Applicant requests that the Examiner consider the IDS of May 19, 2004 and return it with the next action. Also, Applicant notes that the specification is being amended at the second paragraph of page 2 to correctly refer to prior art Figure 1.

To summarize the Office Action, the Examiner objected to claims 6, 11, 13 and 22 for informalities and rejected claim 23 under 35 U.S.C. § 112, second paragraph as allegedly being indefinite. Claims 1-2, 7-8, 10, 12, 14-15, 18-20 and 23-27 stand rejected under 35 U.S.C. § 102(e) based on Kung et al. (U.S. Patent No. 6,775,267, hereinafter "Kung"). Further, claims 3, 6, 16 and 22 stand rejected under 35 U.S.C. § 103(a) based on Kung in view of Gosset Dalton, Jr. et al. (U.S. Patent No. 6,426,955, hereinafter "Gosset"), claims 4 and 17 stand rejected under 35 U.S.C. § 103(a) based on Kung in view of Scott et al. (U.S. Patent No. 6,760,324, hereinafter "Scott"), and claims 5 and 21 stand rejected under 35 U.S.C. § 103(a) based on Kung in view of

Farris et al. (U.S. Patent No. 6,721,306, hereinafter “Farris”). Claims 9, 11 and 13 were indicated as containing allowable subject matter, but were objected to by the Examiner for depending from a rejected base claim. The outstanding objections and rejections are addressed as follows.

Claim Objections

The Examiner objected to claims 6 and 22 are objected for informalities because of the use of "VTN" to identify a Virtual Personal Network. In response, Applicant has amended the claims as suggested by the Examiner. Thus, withdrawal of this objection is requested.

Also, the Examiner objected to Claims 11 and 13 objected to because claim 11 cites a second table but there is no first table claimed in its parent claims, and claim 13 cites a third table but there is no first or second table in its parent claims. Applicant submits that this ground of objection is moot in view of the amendment to claims 11 and 13, and withdrawal of the objection is requested.

Claim Rejections - 35 USC § 112

Claim 23 stands rejected under 35 U.S.C. 112, second paragraph, as being indefinite for lack of antecedent support of “said QOS”. Applicant has amended claim 23 to provide

antecedent support for the claimed element, and withdrawal of this ground of rejection is requested.

Claim Rejections - 35 USC § 102

Claims 1-2, 7-8, 10, 12, 14-15, 18-20, and 23-27 stand rejected under 35 U.S.C. 102(e) as allegedly being anticipated by Kung. Applicant respectfully traverses this ground of rejection.

With respect to independent claim 1, Applicant submits that this claim defines a novel communications system presenting new features. For instance, the communications systems comprises, *inter alia*, a gateway which transfers IP datagrams, wherein the gateway detects a protocol used for transfer of at least one IP datagram which is received, and a quality determining unit which includes QoS (quality of service) data of a plurality of protocols, wherein the quality determining unit determines a quality of service which corresponds to the detected protocol based on the QoS data. Additionally, a user fee determining unit determines a user fee based on the quality of service, and the gateway transfers the at least one IP datagram at the determined quality of service. Thus, a communications system is provided in which a communication service quality is optimally changed on the basis of a protocol used for the communications. (see Specification at page 25, line 12 - page 26, line 6).

Notwithstanding the Examiner's rejection of claim 1, Applicant submits that Kung fails to anticipate or suggest all the limitations of this claim. For instance, Kung teaches a method for

billing Internet broadband communications wherein user input determines desired quality of service and data rate parameters. (Kung at col. 3, lines 60-64 and col. 7, lines 27-35). As taught by Kung, the user merely selects a desired quality of service level from low, average, or high levels via a user interface, and the system bills the user on the basis of the selected level. (Kung at col. 33, line 49 - col. 34, line 33).

However, Kung fails to suggest *at least* a quality determining unit which includes QoS data of a plurality of protocols, wherein the quality determining unit determines a quality of service which corresponds to a detected protocol based on the QoS data, as required by claim 1. As noted above, the quality of service in Kung is determined from user input of a desired quality of service level. Further, there is no suggestion in Kung that this user input has any effect on which protocol is used for communication. Indeed, Kung teaches that the communications at different quality of service levels are transmitted by the *same* protocol, i.e., the SS7 (signaling system 7) protocol. (col. 28, line 4 - col. 30, line 36). Thus, Kung fails to suggest at least the feature of the quality of service determination, as claimed.

Therefore, Applicant submits that Kung fails to anticipate all the limitations of claim 1 and reconsideration and withdrawal of the rejection of this claim is respectfully requested. Further, Applicant submits that claims 2-13 are allowable at least by virtue of depending from independent claim 1, and allowance of these claims is requested.

In addition, Applicant submits that the above arguments are equally applicable to independent claims 14, 23, and 25-27, which recite communications systems and methods which

likewise include the limitation of determining the quality of service from QoS data of a plurality of protocols, wherein the quality of service which is determined corresponds to a detected protocol. Thus, Applicant submits that Kung fails to anticipate or suggest all the limitations of independent claims 14, 23, and 25-27, at least for the reasons discussed above with respect to independent claim 1. Therefore, reconsideration and withdrawal of the rejection of claims 14, 23 and 25-27 is requested. Further, Applicant submits that claims 15-22 and claim 24 are allowable at least by virtue of depending from claims 14 and 23, respectively. Accordingly, Applicant requests allowance of claims 15-22 and 24, as well.

Claim Rejections - 35 USC § 103

Claims 3, 6, 16, and 22 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Kung et al. in view of Gossett. As discussed above, Applicant submits that these claims are patentable *at least* by virtue of depending from independent claims 1 and 14, respectively, and allowance of claims 3, 6, 16 and 22 is therefore requested.

Claims 4 and 17 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kung in view of Scott. As discussed above, Applicant submits that these claims are patentable *at least* by virtue of depending from independent claims 1 and 14, respectively, and allowance of claims 4 and 17 is requested.

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Claims 5 and 21 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kung in view of Farris. As discussed above, Applicant submits that these claims are patentable *at least* by virtue of depending from independent claims 1 and 14, respectively, and allowance of claims 5 and 21 is requested.

Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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CUSTOMER NUMBER

Date: August 5, 2005